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U.S. Environment Protection Agency
Proposed Renewable Fuel Standard Program:
Standards for 2019 and Biomass-Based Diesel Volume for 2020
August 2019

On behalf of the State of Nebraska and as past Chairman of the Governors' Biofuels Coalition, I am pleased to have this opportunity to comment on the EPA's proposed volume requirements under the Renewable Fuel Standard.

First and foremost, I want to once again commend EPA for its on-time proposal. As you did last year, getting this out in advance provides us the opportunity to work with you to get it right and for our producers, suppliers, and investors to make plans**.** The importance of creating certainty and the stability that comes with it cannot be overstated. Releasing these volume proposals in a timely manner allows for planning and stability in the market. It is my hope that the 2019 volume requirements will be finalized by the November deadline to further support market development.

I am heartened to see the rule proposed by EPA allows for continued use of 15 billion gallons of conventional biofuels to meet RFS requirements. The proposal is consistent with the President's statements of support for the corn ethanol industry, but this target only works if EPA implements the program in a way that honors Congressional intent.

Like all ethanol-producing states, Nebraska is concerned about the reports over the last year about waivers granted to refiners. We estimate that the reported waivers have reduced demand for ethanol by roughly 2 billion gallons. Additionally, reports that retroactive waivers have been granted to refineries outside the small refinery definition are very concerning to us.

Supplies of ethanol are plentiful and readily available at a lower cost than gasoline. I believe biofuels targets are a modest requirement that refiners and other obligated parties can meet with ease. The Energy Independence and Security Act of 2007 enhanced the original RFS volumes to further incentivize and promote the production and use of increasing year-over-year volumes of conventional ethanol, as well as cellulosic biofuels, biomass-based diesel and other advanced biofuels into the U.S transportation fuel supply. These increasing use requirements were placed on obligated parties because they largely control the content of the fuels that

are used in our nation's fuel supply. They have known of their increasing volumetric obligations since 2007 and have thus have had more than a decade to prepare to meet them.[1]

To resolve the concerns around the reported waivers, we have two requests. First, we would like to see additional transparency and public input around the decision-making process for granting waivers. We want to know the methodology behind the waiver process and how that is impacting the overall obligation. Second, the EPA needs to make sure waivers do not erode the 15 billion gallon volume obligation volume. They can avoid this by reallocating waived gallons in the year the waiver was granted. Waived obligations need to be picked up the same year they are waived, so that waived obligations are not lost.

Media reports by Reuters and other reputable sources, including EPA emails, indicate that former Administrator Pruitt had determined the agency had the authority to reallocate those waived volumes throughout obligated parties. He was apparently prepared to implement the reallocation proposal only to rescind it after extreme pressure by refiners. This is not the intent of the RFS and the EPA is obligated to maintain the total volume of renewable fuel at the proposed levels, as it has historically, when it has granted waiver requests from small refiners. In the event there is a legitimate reason to grant a waiver the volume must be re-allocated.

We are quite aware that the heart of the opposition to the RFS centers on the credits and trading system of Renewable Identification Numbers, or RINs. These RINs are a function of supply, and if more ethanol was allowed (other than the requirements for conventional ethanol usage) to enter the market, it would generate RINs that would drive down the cost of compliance for everyone. In other words, the answer for achieving lower cost RINs is greater availability and use of conventional and other biofuels, not less.

In order for additional ethanol to become available for such use that will drive down costs of RINs for obligated parties, EPA must address several regulatory barriers that currently exist. I respectfully request that the EPA:

[1] [1]"[I]f obligated parties choose to achieve their required RFS volumes using ethanol they should work with their partners in the vehicle and fuel market to overcome any market limitations on increasing the volume of ethanol that is used. Stakeholders in the refining sector have been aware of the E10 blendwall since passage of EISA in December of 2007." Environmental Protection Agency, "Notice of Decision Regarding Requests for a Waiver of Renewable Fuel Standard," Nov. 27, 2012, Fed. Reg. 70752-75, 70773, available at https://www.gpo.gov/fdsys/pkg/FR-2012-11-27/pdf/2012-28586.pdf.

- allow E15 to be sold year round;

- extend the existing one pound vapor pressure waiver to E15 and higher ethanol blends;

- embrace the National Renewable Energy Laboratory and U.S. Department of Agriculture models among others and correct the lifecycle analysis thereby confirming ethanol as a more attractive option for low carbon fuel program compliance;

- correct the emissions models that imply ethanol increases harmful emissions;

- approve an E30 certification fuel to provide refiners with options beyond toxic aromatic compounds;

- recognize that the existing E10 certification fuel makes any volume limitations under the substantially similar regulations obsolete;

- reinstate Flex Fuel Vehicle Credits that can be prorated for any volume of ethanol;

- establish a minimum octane standard of a 98 Research Octane Number (RON), allowing for and incentivizing automakers to produce high compression and high efficiency vehicles as a component of the pending fuel economy rule.

- enforce the toxics controls in the Clean Air Act, beginning by updating the flawed 2007 review that appropriately acknowledged ethanol as a superior octane additive compared to traditional aromatics, but incorrectly asserted that ethanol was in short supply and that oil was at $19/bbl. These conclusions are now inaccurate and do not reflect the realities of the ethanol and oil industries

EPA has the authority to make all of the above recommended regulatory changes. I hope it begins work to do so, as, taken together, these changes would open the market for a cleaner and competitively priced fuel that consumers can choose, while giving obligated parties additional tools to comply with the RFS. Further, it would positively impact agricultural and rural economies in states including Nebraska that have been experiencing a cyclical downturn.

Use of ethanol also reduces air emissions and improves air quality by replacing more expensive and more polluting carcinogenic aromatics that are otherwise added to gasoline to meet octane requirements. As noted, it is critical to update the models and assumptions used for the cost-benefit analysis. As explained in the comments we submitted to EPA in recent years in conjunction with the Urban Air Initiative, the Clean Fuels Development Coalition, and several other organizations, the models and assumptions currently used by the agency are out of date.

EPA's continued reliance on the outdated 2010 Lifecycle Analysis is improper. The best available science shows that blending ethanol into gasoline has reduced emissions of greenhouse gases and other air pollutants far more than EPA projected in 2010. EPA's emissions estimates were inaccurate when published six years ago, and they have become more inaccurate in the intervening years as ethanol production has become increasingly cleaner in every respect. EPA's reliance on erroneous lifecycle estimates diminishes the reduced greenhouse gas and increased air quality and health benefits of the RFS.

In the past 13 years the number of ethanol plants has more than doubled. These biofuel plants are now located in 29 states. During that time, ethanol production from corn has increased nearly 300 percent. Corn starch ethanol is the compliance tool of choice by obligated parties under the conventional biofuel category. Supporting this growth, US corn production has increased by over a third, driven almost completely by higher yields as corn acres have remained generally flat, and the nation's corn surplus has grown by nearly 20 percent since 2005.

In my state of Nebraska alone, we have 25 ethanol plants representing more than $5 billion of investment. These plants are a major contributor to the state's economy, supporting communities with jobs and taxes, buying corn produced by our farmers and selling high quality feed to our cattle industry. Nationwide, the ethanol industry employs over 300,000 people in direct and indirect jobs and adds over $32 billion to the nation's annual gross output.

Just as the RFS was important for development of the ethanol industry overall, the advanced biofuel category of the RFS that includes biodiesel plays an important role fostering the technology development in that area. I urge the Agency to **set the highest volumes possible** for biodiesel included in the proposed rule. The biofuels industry has proven that when you set the bar high the industry can make the jump.

In Nebraska and other states with biodiesel facilities, we have the capacity to produce significantly more biodiesel than currently produced. Increased demand for biodiesel would result in additional investment, jobs, and energy security as well.

Similarly, while we are encouraged that EPA has proposed increased cellulosic requirements for 2019, we are concerned that such increased numbers will not have the intended effect of promoting investment and growth in cellulosic biofuels unless the agency takes additional actions. A critical step we urge EPA to take is to quickly and efficiently process and approve new applications for qualified cellulosic biofuels, including registration applications for the production of cellulosic ethanol from corn kernel fiber. In addition to new dedicated cellulosic facilities, companies in Nebraska and other states have made and are making multimillion dollar investments integrating new corn fiber technologies into existing biofuel plants to produce cellulosic ethanol. Industry clearly is looking to the future and EPA should process and approve qualified registration applications for increased volumes of cellulosic ethanol made from corn kernel fiber and return to the same forward-looking approach to set the annual volumes that the agency used in prior years.

Today, plants can integrate these new technologies much more efficiently than if these products were made independently. This brings us closer to the vision of true bio-refineries that, like our petroleum counterparts, can produce a wide range of products in a single facility. The RFS is the catalyst that drives plants to constantly innovate and strive for increased efficiency. Given that advanced biofuels can be achieved through more pathways than when the RFS began and that biogas and renewable electricity can also be produced at modern plants, we should be pushing the boundaries of our technological abilities. Setting the advanced biofuel volumes higher will support these innovations.

Again I want to commend you for this timely proposal and hope the final rule will reflect the suggestions I have included in this letter so that the agency will send the signal to the biofuels industry that it is implementing the RFS in a stable manner, which will promote the greater production and use of biofuels, as the RFS intended.

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